

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

VIRGIL J. WINSTON,

Defendant.

**Case No. 08-2397
06-20005-01**

MEMORANDUM AND ORDER

Defendant Virgil J. Winston has filed a motion for a certificate of appealability (doc. 76). A district court may issue a certificate of appealability “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The Tenth Circuit has interpreted this standard to require a petitioner to demonstrate that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Saiz v. Ortiz*, 392 F.3d 1166, 1171 n.3 (10th Cir. 2004) (quoting *Tennard v. Dretke*, 542 U.S. 274, 282 (2004)).

In his application, Mr. Winston repeats his prior arguments that his Fourth Amendment rights were violated. He does not address, however, the court’s reasons for concluding otherwise; nor does he explain why reasonable jurists would disagree with this court’s prior rulings.

Accordingly, Mr. Winston has failed to meet the standard for the issuance of a certificate of appealability.

IT IS THEREFORE ORDERED BY THE COURT that defendant's motion for a certificate of appealability (doc. 76) is denied.

IT IS SO ORDERED this 8th day of September, 2009.

s/ John W. Lungstrum

John W. Lungstrum
United States District Judge